



Journal of the Senate

State of Indiana

115th General Assembly

Second Regular Session

Thirteenth Meeting Day

Tuesday Afternoon

February 5, 2008

The Senate convened at 2:02 p.m., with the President Pro Tempore of the Senate, David C. Long, in the Chair.

Prayer was offered by Senator Samuel Smith, Jr.

The Pledge of Allegiance to the Flag was led by Senator Smith.

The Chair ordered the roll of the Senate to be called. Those present were:

| | |
|--|------------|
| Alting | Long |
| Arnold | Lubbers |
| Becker | Meeks |
| Boots | Merritt |
| Bray | Miller |
| Breaux <input checked="" type="checkbox"/> | Mishler |
| Broden | Mrvan |
| Charbonneau | Nugent |
| Deig | Paul |
| Delph | Riegsecker |
| Dillon | Rogers |
| Drozda | Simpson |
| Errington | Sipes |
| Ford <input checked="" type="checkbox"/> | Skinner |
| Gard | Smith |
| Hershman | Steele |
| Howard <input checked="" type="checkbox"/> | Tallian |
| Hume | Walker |
| Jackman | Waltz |
| Kenley | Waterman |
| Kruse | Weatherwax |
| Lanane | Wyss |
| Landske | Young, M. |
| Lawson | Young, R. |
| Lewis | Zakas |

Roll Call 181: present 47; excused 3. [Note: A ☒ indicates those who were excused.] The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 33

Senate Concurrent Resolution 33, introduced by Senator Smith:

A CONCURRENT RESOLUTION urging the United States Congress to impose a moratorium on home foreclosures and to establish a homeowners and bank protection act.

Whereas, A financial crisis involving home mortgages debt

instruments and the United States banking system threatens economic stability and that the financial crisis threatens the integrity of federal and chartered banks such that consumer deposits and life savings are jeopardized; and

Whereas, Financial investments and home ownership is the fabric of economic stability and the stability of financial institutions and that millions of Americans and thousands of Indiana residents are facing foreclosures on their homes; and

Whereas, Historically the federal government has intervened to protect financial institutions and home ownership and to provide guarantees of social and economic stability; and

Whereas, The quality of life in any community can be directly related to the responsiveness of government and its ability to meet the needs and expectations of its citizens; and

Whereas, Hoosiers understand the connection and elect leaders with certain expectations regarding the service they will provide and the role they will play in their lives and those elected to serve the citizens of Indiana accept the privilege of service with the understanding of their responsibility and the expectation of the community; and

Whereas, The accountability for Indiana's viability, prosperity and overall well-being lies with those elected to serve government: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That the Indiana General Assembly urges the United States Congress to establish a federal agency to place Federal and State chartered banks under protection, freezing all existing home mortgages for a period of time, adjusting mortgage values to fair prices, restructuring existing mortgages at appropriate interest rates and writing off speculative debt obligations of mortgage-backed securities, financial derivatives and other forms of financial pyramid schemes that have brought the banking system to the point of bankruptcy.

SECTION 2. That the Indiana General Assembly urges the United States Congress to declare a moratorium on all home foreclosures for the duration of the transitional period, allowing families to retain their homes.

SECTION 3. That the Indiana General Assembly urges the United States Congress to require affordable monthly home mortgage payments, the equivalent of "rental payments," to be made to designated banks for use as collateral in normal lending practices for recapitalization of the banking industry and to factor such affordable payments into new mortgages thereby deflating

the housing bubble, establishing appropriate property valuation and reducing fixed mortgage interest rates.

SECTION 4. That the Indiana General Assembly urges the United States Congress to provide an interim period during which homeowners may not be evicted from their homes and protection to banks pending the resumption of traditional banking functions, including serving local communities and facilitating credit for investment in productive entities.

SECTION 5. That the Indiana General Assembly urges the United States Congress to authorize state governors to administer the implementation of programs, including provisions for "rental" assessments payable to specific banks and with provisions for necessary federal guarantees and credits to assure successful transition.

SECTION 6. That the Secretary of the Senate shall transmit copies of this resolution to members of the United States Senate and the House of Representatives.

The resolution was read in full and referred to the Committee on Rules and Legislative Procedure.

INTRODUCTION OF BILLS

The following bills and resolutions were read a first time by title and referred to the respective committees:

HB 1036 — Steele, Paul (Homeland Security, Transportation & Veterans Affairs)

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

HB 1042 — Steele, Lewis (Corrections, Criminal, and Civil Matters)

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

HB 1097 — Gard (Health and Provider Services)

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

HB 1105 — Bray, Waterman, Wyss, Skinner (Pensions and Labor)

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

HB 1107 — Lubbers, Sipes, Rogers, Alting (Education and Career Development)

A BILL FOR AN ACT to amend the Indiana Code concerning education.

HB 1134 — Steele, Lanane (Corrections, Criminal, and Civil Matters)

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

HB 1170 — Becker (Judiciary)

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

HB 1184 — Lubbers, Sipes, Rogers (Education and Career Development)

A BILL FOR AN ACT to amend the Indiana Code concerning

education and to make an appropriation.

HB 1187 — Lawson, Bray (Corrections, Criminal, and Civil Matters)

A BILL FOR AN ACT to amend the Indiana Code concerning business and other associations.

HB 1196 — Landske (Local Government and Elections)

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

HB 1245 — Paul, Simpson, Rogers, Merritt (Tax and Fiscal Policy)

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

HB 1246 — Lubbers, Sipes (Education and Career Development)

A BILL FOR AN ACT to amend the Indiana Code concerning education.

HB 1250 — Hershman, Alting, Rogers, Sipes (Appropriations)

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

HB 1275 — Sipes (Local Government and Elections)

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

HB 1276 — Paul, Simpson (Judiciary)

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

HB 1280 — Hershman, Simpson, Breaux (Energy and Environmental Affairs)

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

HB 1284 — Paul (Insurance and Financial Institutions)

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

HB 1288 — Dillon, Sipes (Corrections, Criminal, and Civil Matters)

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

HB 1293 — Broden (Tax and Fiscal Policy)

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

HB 1297 — Gard, Deig (Local Government and Elections)

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

HB 1310 — Dillon, Smith (Education and Career Development)

A BILL FOR AN ACT to amend the Indiana Code concerning education.

HB 1318 — Becker, Miller (Homeland Security, Transportation & Veterans Affairs)

A BILL FOR AN ACT to amend the Indiana Code concerning

health and to make an appropriation.

HB 1319 — Kenley, Skinner, Drozda (Tax and Fiscal Policy)
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

HB 1329 — Wyss, Tallian (Corrections, Criminal, and Civil Matters)
A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

HB 1341 — Charbonneau, Lewis, Tallian, Deig (Commerce, Public Policy & Interstate Cooperation)
A BILL FOR AN ACT to amend the Indiana Code concerning transportation.

HB 1359 — Paul (Insurance and Financial Institutions)
A BILL FOR AN ACT to amend the Indiana Code concerning financial institutions.

HB 1360 — Bray, Lanane (Tax and Fiscal Policy)
A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

HB 1379 — Charbonneau, Paul, Simpson, Smith (Insurance and Financial Institutions)
A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Engrossed House Bill 1026, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

- Page 1, delete lines 1 through 17.
- Page 2, delete lines 1 through 5.
- Page 3, line 31, delete "Containers" and insert "**Vaults**".
- Page 3, line 33, delete "container" and insert "**vault**".
- Page 3, line 37, delete "container" and insert "**vault**".
- Page 3, line 39, delete "container" and insert "**vault**".
- Page 4, line 26, after "merchandise" insert "**or equipment**".
- Page 4, line 26, delete "container" and insert "**vault (as defined in IC 23-14-33-33)**".
- Page 4, line 31, delete "container" and insert "**vault**".
- Page 7, line 21, after "merchandise" insert "**or cash advance items**".
- Page 7, line 22, delete "includes" and insert "**include**".
- Page 7, line 22, delete "container" and insert "**vault (as defined in IC 23-14-33-33)**".
- Page 7, line 27, delete "container" and insert "**vault**".
- Page 10, delete lines 10 through 15.
- Page 11, delete lines 9 through 14.
- Page 16, line 4, after "purpose" delete ":" and insert "**and as provided in the Indiana uniform prudent investor act (IC 30-4-3.5):**".
- Page 18, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 15. IC 30-4-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Except as otherwise provided in subsection (b), a trustee who invests and manages trust assets owes a duty to the beneficiaries of the trust to comply with the prudent investor rule set forth in this chapter.

(b) The prudent investor rule, a default rule, may be expanded, restricted, eliminated, or otherwise altered by the provisions of a trust. A trustee is not liable to a beneficiary to the extent that the trustee acted in reasonable reliance on the provision of the trust.

(c) This chapter applies to a trustee or escrow agent, acting as fiduciary, of:

- (1) a perpetual care fund or an endowment care fund established under IC 23-14-48-2;**
- (2) a prepaid funeral plan or funeral trust established under IC 30-2-9;**
- (3) a funeral trust established under IC 30-2-10; or**
- (4) a trust or escrow account created from payments of funeral, burial services, or merchandise in advance of need, as described in IC 30-2-13."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1026 as printed January 18, 2008.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

STEELE, Chair

Report adopted.

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 11

House Concurrent Resolution 11, sponsored by Senators Rogers, Smith, Howard, and Breaux:

A CONCURRENT RESOLUTION celebrating Black History Month.

Whereas, Black history has been celebrated by Americans each year since 1926, first as Negro History Week and later as Black History Month;

Whereas, Blacks have been in America since colonial times, but it was not until the 20th century that they were represented in history books;

Whereas, The celebration of Black History Month and the study of black history came into being through the efforts of Dr. Carter G. Woodson;

Whereas, Dr. Woodson's parents were former slaves, and he spent his childhood working in the Kentucky coal mines;

Whereas, Dr. Woodson enrolled in high school at age 20, graduated within two years, and went on to earn a Ph.D. from Harvard University;

Whereas, Dr. Woodson was disturbed to find that history books largely ignored the black American population and mentioned blacks only in ways that reflected the inferior social

position they were assigned at the time;

Whereas, Dr. Woodson began the task of writing Black Americans into the nation's history;

Whereas, Through the efforts of Dr. Woodson, several organizations were established as a way to bring national attention to the contributions of black people throughout American history, including the Association for the Study of Negro Life and History, founded in 1915 (now known as the Association for the Study of African American Life and History), the Journal of Negro History (now known as the Journal of African American History), and in 1926, the establishment of Negro History Week;

Whereas, Dr. Woodson chose the second week of February for Negro History Week because it marks the birthdays of two men who greatly influenced the black American population: Frederick Douglass and Abraham Lincoln;

Whereas, Black History Month, celebrated in February, acknowledges the achievements of blacks in the military, the arts, civil rights, education, entertainment, history, law, literature, medicine, music, politics, science, sports, and other areas;

Whereas, Black History Month aims to bridge the gap created by American history's failure to accurately acknowledge, portray, and record the contributions and inventions of blacks; and

Whereas, Black Americans reflect a legacy of courage and dedication that has helped to guide our nation's success and prosperity: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

Section 1. That the Indiana General Assembly acknowledges the many contributions and accomplishments of black Americans throughout the history of the United States and Indiana.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

SENATE MOTION

Madam President: I move that Senator Charbonneau be added as cosponsor of Engrossed House Bill 1046.

JACKMAN

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Charbonneau be removed as cosponsor of Engrossed House Bill 1055.

CHARBONNEAU

Motion prevailed.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Senate Concurrent Resolutions 28, 29, and 31 and the same are herewith returned to the Senate.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed House Concurrent Resolution 11 and the same is herewith transmitted for further action.

CLINTON MCKAY
Principal Clerk of the House

SENATE MOTION

Madam President: I move that Senator Hume be added as cosponsor of Engrossed House Bill 1213.

KRUSE

Motion prevailed.

SENATE MOTION

Madam President: I move we adjourn until 1:30 p.m., Thursday, February 7, 2008.

LAWSON

Motion prevailed.

The Senate adjourned at 2:19 p.m.

MARY C. MENDEL
Secretary of the Senate

REBECCA S. SKILLMAN
President of the Senate